REMARKS

Claims 1, 3-6, 9, 10, 13, and 31-36 are pending in the present application. Claims 1, 3-6, 9, 10, and 13 stand allowed. Claims 31 and 33-35 stand rejected, and claims 32 and 36 are objected to.

In the Office Action mailed July 27, 2007, claim 31 was rejected under 35 U.S.C. 103(a) as being unpatentable over Tomasi, et al. and Manduchi in view of August. The Examiner stated that (the combination of) "Tomasi and Manduchi does not disclose expressly that filter is normalized expression implemented as a Taylor series expansion. August teaches that filter is normalized expression implemented as a Taylor series expansion."

The Examiner noted, in paragraph 2 of the present Office Action that "... there is nothing in claim 31 that preclude[s] the use of a Volterra filter or Tansors and generalized cummulant. Claim 31 merely recites using [a] Taylor series expansion. The applicant is reminded that claim 31 is using "comprising" which does not preclude the reference having [an] additional feature".

The Examiner seems to be presenting an argument directed to a claim infringement issue rather than to the issue of whether the cited combination of references renders obvious the specific elements and process recited by Applicant's claim 31. Applicant, of course, agrees that the term "comprising' is open-ended (and that infringement of claim 31 could be found in a process that includes elements in addition to those specifically recited in the claim). However, the issue here is one of obviousness, and instead concerns whether there is an appropriate suggestion or motivation, found in the references, to employ a Taylor series expansion in the same context, i.e., for the same or similar type of filtering process, as that recited in claim 31.

The fact that the preamble of claim 31 uses the term "comprising" does not necessarily allow an element (or step), drawn from a reference

in which the element is employed in a different context than that specifically recited in the claim at issue, to be properly substituted for the recited element in order to show obviousness of the claim.

The Examiner further states, in paragraph 4, that "… it would have been obvious … to use [a] Taylor series expansion to implement filter normalization in the method of Tomasi and Manduchi. The suggestion for doing so would have been that simpler and efficient bilateral filtering can be achieved by using high order local approximation. Therefore, it would have been obvious to combine August with Tomasi and Manduchi to obtain the invention as specified in claim 2" [presumably, the Examiner means claim *31*].

As noted above, the Examiner states that "August teaches that [August's?] filter is [a] normalized expression implemented as a Taylor series expansion.". However, Applicant asserts that the "filter" taught by August is *not* the general type of filter recited in claim 31. Applicant notes that August uses a Taylor series expansion *in combination with* CIRF cummulants *in the specific context of Volterra filtering* [*see* cite below in the following paragraph]. This use of a Taylor series is simply not in the same context as its use in Applicant's claim 31, and, contrary to the Examiner's assertion that August teaches that "simpler and efficient bilateral filtering can be achieved by using high order local approximation", August teaches *nothing* specifically concerning the subject of bilateral filtering. Thus August's use of a Taylor series in a different context, and for a different purpose, cannot be applied to claim 31 to show obviousness thereof.

Applicant's contention above is substantiated by paragraph no. 346 of the August reference, which states:

> In the case of contour filtering, we shall now see
> that the special structure of the CIRF cummulants
> (section 3.5.3), **combined with** a Taylor series
> expansion in inverse noise level, makes MMSE
> Volterra filtering of noisy images possible [emphasis
> supplied].

Thus the teaching of August is (1) clearly directed to "MMSE Volterra filtering", as opposed to bilateral filtering (the subject of applicant's claimed invention), and (2) indicates that a Taylor series expansion is insufficient to produce a useful result in the particular context in which use of a Taylor series is recited in Applicant's claim 31.

Thus, the non-analogous teaching of August cannot be considered as a motivation to use a Taylor series expansion in the bilateral filtering context of Applicant's claim 31. For at least the above reasons, Applicant maintains that the August reference cannot be used in combination with the Tomasi and Manduchi references to show obviousness of the claim.

Therefore, for at least the reasons set forth above, Applicant believes that claim 31 is patentably distinguished over the applied references, and thus allowable. Dependent claims 32—36, which depend from claim 31, should thus also be allowable.

If, in the Examiner's opinion, prosecution of the present application may be expedited with a telephone conference, the Examiner is encouraged to contact the Applicants' attorney.

Respectfully submitted,
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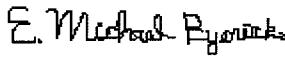
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